IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA, 1928

Crl.MC.No. 5 of 2007()

CC.905/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT, OTTAPPALAM

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PETITIONER: ACCUSED.

RADHAMANI, W/O.RAMANKUTTY,
KALLURUTTIPARAMBIL, AMBILI NIVAS,
THRIPPATTA, KULAPPALLY P.O.,
SHOURNUR, OTTAPALAM.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: STATE OF KERALA.

THE STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.A. AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 1.1.2007 ALONG WITH CRMC 3 & 4 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.M.C. No. 5 of 2008

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Dated: 02-01-2007

ORDER

Petitioner who is the accused in C.C. 534 of 2005 on the file of the Chief Judl. Magistrate, Thodupuzha for offences punishable under Sections 420 and 468 I.P.C. for allegedly misappropriating a sum of Rs. 15,000/- by cheating the applicants who had approached him, seeks a direction to the Chief Judicial Magistrate to recall the non-bailable warrant of arrest issued against him and to release him on bail and also to allow Annexure-I application filed by him under Section 311 Cr.P.C. to recall P.W.1 for the purpose of cross-examination . It was admittedly , on account of the non-appearance of the petitioner that his bail bond was cancelled and warrants were issued. The petitioner claims to have valid grounds for his non-appearance before the Court on 10-12-2007. He has also a grievance that his counsel Ayyappan Pillai suffered cerebral hemorrhage resulting in his admission in the Intensive Care Unit of the Medical College Hospital, Kottayam. If the petitioner has not availed of an opportunity to cross-examination C.W.1, I am sure that the Chief Judl. Magistrate will not be vindictive in refusing the petitioner an opportunity to cross-

examine C.W.1. Likewise, if the bail bond of the petitioner happened to be cancelled on account of the circumstances highlighted by him, there is no reason why the petitioner should not seek bail from the Magistrate by filing a fresh application after surrendering before the Magistrate.

Accordingly, this M.C. is disposed of permitting the petitioner to surrender before the Chief Judicial Magistrate and file an application for regular bail within two weeks from today. If the petitioner complies with the above condition, the Magistrate shall consider and dispose of the bail application, preferably, on the same date on which it is filed, after examining the explanation offered by the petitioner for his non-appearance. The Magistrate shall also favourably consider his application filed under Sec. 311 Cr.P.C. to cross-examine C.W.1 provided the petitioner co-operates with the further progress of the trial.

V. RAMKUMAR,
(JUDGE)

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